

R E M A R K S

The two independent claims (1 and 33) have been further amended to delete "DC" from their recitals of "the uppermost recrystallization linear velocity V at the time when a focused semiconductor beam DC irradiates said groove portions or land portions," and to change the recited range of uppermost recrystallization linear velocity from "between 12 and 24 m/s" to "between 16 and 24 m/s." The first change is made for the sake of clarity and consistency of recitals; the second change is supported by the disclosure of the original specification at p. 47, line 24 - p. 48, line 4. Since this Amendment does not increase either the total number of claims or the number of independent claims, no additional fee is necessary.

Claims 1 (independent; amended), 2 - 4, 6 - 10, 12 - 14, 17 - 25, 27 - 32 (directly or indirectly dependent on 1), 33 (independent; amended) and 34 - 38 (dependent on 33), all directed to an optical information recording medium, are in the application. No claim has been allowed.

In the aforementioned Office Action, claims 1 and 33, and other claims, have been rejected under 35 U.S.C. §103(a) as unpatentable over each of the following combinations of references:

- (1) Yoshinari et al. '913 in view of Ando et al. '543 and Hisotomi et al. WO 99/38168;
- (2) Yasuda et al. '788 in view of Ando et al. and Hisotomi et al.;
- (3) Uno et al. '135 in view of Ando et al. and Hisotomi et al.;
- (4) Yasuda et al. or Uno et al. in view of Ando et al. and Hisotomi et al., further in view of Nobukuni et al. EP 1056077.

Each of these grounds of rejection, as understood, relies on the applied primary reference (Yoshinari et al., Yasuda et al. or Uno et al.) as disclosing media that "would inherently have uppermost recrystallization velocities in the 12-24 m/s range for at least some specific conditions of laser power and wavelength," and relies on the secondary references only for other features such as lead-in areas containing embossed information (Ando et al. and Hisotomi et al.) or recording medium compositions, substrate thicknesses, and/or track widths and depths (Nobukuni et al.).

By the present Amendment, both independent claims 1 and 33 have been limited to a medium wherein the uppermost recrystallization linear velocity is between **16** and 24 m/s. Applicants respectfully submit that the applied references neither disclose nor suggest a range of uppermost recrystallization linear velocity between **16** and 24 m/s.

Yoshinari et al. sets forth (col. 10, lines 7-17) that the most favorable maximum linear velocity is from 6.8 m/s to 15 m/s.

Generally speaking, the optimum recording linear velocity and the uppermost recrystallization linear velocity are nearly the same. For example, the recrystallization linear velocity of CD 4x and 10x is 4.10 m/s, which corresponds to the optimum recording linear velocity.

This means that the recrystallization linear velocity in Yoshinari et al. can be thought to be from 6.8 m/s to 15 m/s.

Therefore, Yoshinari et al. fails to disclose or suggest that the uppermost recrystallization linear velocity is from 16 m/s to 24 m/s.

Yasuda et al. and Uno et al. also fail to disclose or suggest that the recrystallization linear velocity is from 16 m/s to 24 m/s.

The secondary references applied together with Yoshinari et al., Yasuda et al. and/or Uno et al. in the several grounds of rejection are not even asserted to supply what is lacking in this regard in the teachings of the primary references.

It follows that each of claims 1 and 33 as herein amended distinguishes patentably over the applied references, however combined, in reciting an uppermost recrystallization linear velocity between 16 and 24 m/s. All the other claims, being dependent on either claim 1 or claim 33, are believed allowable therewith.

In addition, the Office Action states (at pp. 3-4):

"Furthermore the claims fail to specify the conditions for the determination of the uppermost recrystallization velocity. Clearly this leaves the claims embracing a variety of conditions for this, which allows the rejection of the claims. . . .

"The claims would have to go further in specifying . . . that the beam is the same as that used for recording and reproduction."

These statements are not repeated in the discussion of the fourth ground of rejection (numbered section 6), but since that ground relies on the same primary references as the second and third grounds, it is understood that the above-quoted statements are equally applicable to the fourth ground as well. Nobukuni et al., the reference added in the fourth ground, is not asserted to contain any disclosure pertinent to the subject matter of the quoted statements.

In the applicants' response to the last previous Office Action, the two independent claims (1 and 33) were amended to recite that the "focused semiconductor beam" employed to measure the uppermost recrystallization linear velocity V of the claims is "the focused semiconductor beam . . . used for recording or reproducing." The Office Action, in making the statements quoted above, seems to have overlooked or failed to appreciate the significance of the amended recital.

To remove possible confusion or uncertainty, the recital "the uppermost recrystallization linear velocity V at the time when a focused semiconductor beam DC irradiates said groove portions or land portions" has been amended to delete "DC," and thereby to make clear that the recited "focused semiconductor beam" used to determine the uppermost recrystallization linear velocity V is the same as that "used for recording or reproducing."

In summary, the Office Action is understood to require that the claims specify that the beam used for determining the uppermost recrystallization velocity V "is the same as that used for recording and reproduction" and to indicate that such a limitation might present a patentable distinction over the applied references. This requirement is already substantially met by the aforementioned amendment made in the independent claims in response to the last previous Office Action, especially as clarified by the further amendment (deleting "DC") herein made. It is therefore submitted that these recitals specifying the beam used to determine the value V further distinguish independent claims 1 and 33, as well as all the other claims (which are dependent on one or the other of claims 1 and 33), patentably over each of the asserted combinations of primary and secondary references.

For the foregoing reasons, it is believed that this application is now in condition for allowance. Favorable action thereon is accordingly courteously requested.

Respectfully,

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I hereby certify that this paper is being deposited this date with the U.S. Postal Service as first class mail addressed to Commissioner for Patents, P.O. Box 1450, Arlington, VA 22313-1450.

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